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## ANNUAL REPORT 1993



Ken Rainbow Cassar  
"STORM EAGLE" '93

*“How  
firm we  
stand and  
plant our  
feet upon  
our land  
determines  
the strength  
of our  
children’s  
heartbeats.”*

**Polly Koutchak**  
Unalakleet  
Alaska

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### Tax Status

The Native American Rights Fund (NARF) is a nonprofit, charitable organization incorporated in 1971 under the laws of the District of Columbia. NARF is exempt from federal income tax under the provisions of Section 501(c)(3) of the Internal Revenue code. Contributions to NARF are tax deductible. The Internal Revenue Service has ruled that NARF is not a "private foundation" as defined in Section 509(a) of the Internal Revenue Code. Founded in 1970 and incorporated in 1971 in Washington, D.C.



### COVER & ARTWORK: Ken

"Rainbow Cougar" Edwards is a member of the Colville Confederated Tribes from Washington State. He graduated from the Institute of American Indian Arts High School in Santa Fe and also has a Fine Arts degree from the Institute of American Indian Arts. Ken is a member of the Indian Arts and Crafts Association.

Ken's artwork has been exhibited and sold throughout the United States and has been chosen for several Native American posters for Indian organizations and Indian communities. His artwork can be found on the Native American Artists series of cards published by the Wintercount Card Co. He is also a storyteller and oral historian. Ken has traveled to over 65 Indian reservations and has compiled more than 1,000 stories from as far north as Barrow, Alaska, to as far south as Florida.

**PHOTO CREDITS:** Paul Joseph Brown; Bert Gildart; Thorney Lieberman; Smithsonian Institution.

## INTRODUCTION

For the past 23 years, the Native American Rights Fund has successfully represented Indian tribes and individuals in nearly every state in the nation. The hundreds of cases it has been involved in have concerned every area and issue in the field of Indian law. NARF's reputation as a national Indian law advocate is backed by its 23 years of successful legal representation on behalf of Native Americans.

A brief review of NARF's origin will give a better understanding of NARF's role in the struggle to protect Native rights in today's society.

### The Founding of Native American Rights Fund

In the 1960's, the federal government and private philanthropists became actively concerned with the ability of underserved populations to access legal services. The federal government funded a network of legal services programs to serve a variety of populations, and it soon became apparent through the work of those programs that there were several population groups among those needing legal services which had unique needs.

Native Americans, whose lives are governed by the hundreds of treaties, thousands of federal statutes and numerous regulations and administrative rulings which make up the specialized body of law known as Federal Indian law, were one such group whose needs demanded a specialized legal practice with a national purview.

The Native American Rights Fund was formed in California in 1970 to address the need for a central, national perspective in the practice of Federal Indian law. NARF then a pilot project, was assisted in its work by the legal academic community and California Indian Legal Services; the project was funded by the Ford Foundation.

The need for NARF's program was quickly established, and in 1971, NARF moved its growing staff to Boulder, Colorado, a location more central to Indian country. Since the beginning, the national scope of legal work undertaken by NARF as a nonprofit organization has been supported by foundation and government grants, corporate, individual,

and tribal contributions; and limited client fees.

The accomplishments and growth of NARF over the years confirmed the great need for Indian legal representation on a national basis. This legal advocacy on behalf of Native Americans is more crucial now than ever before. NARF strives to protect the most important rights of Indian people within the limit of available resources. To achieve this goal NARF's Board of Directors has defined five priority areas for NARF's work: (1) the preservation of tribal existence; (2) the protection of tribal natural resources; (3) the promotion of human rights; (4) the accountability of governments to Native Americans; and (5) the development of Indian law.

## EXECUTIVE DIRECTOR'S REPORT

enforcing its tribal tax ordinance by claiming that Kluti Kaah is not a tribe and lacks tribal taxing authority. NARF has represented the Village since 1985.

In an historic event affecting Kluti Kaah and other Alaska tribes, the Department of the Interior subsequently announced the publication of a new list of 226 federally-recognized tribes in Alaska. The new list removes ambiguities in previous Departmental lists and makes it clear that Alaska Native Villages have the same tribal status as tribes in the contiguous 48 states. NARF has been seeking such a new Alaska tribal list for several years on behalf of Kluti Kaah and other villages.

After an 18-year effort by NARF, the Catawba Tribe's land claim in South Carolina was resolved by passage of the Catawba Indian Land Claim Settlement Act of 1993 by the United States Congress. The settlement provides for payment to the Tribe of \$50 million over a 5-year period from federal, state and local governments and restores the Tribe's status which had been terminated by the federal government in 1959. The Tribe will use the settlement funds for land acquisition, economic development, education, social services and elderly assistance, and annual per capita distribution. The settlement also effectuates a comprehensive jurisdictional compact between the Tribe and the state and calls for additional in-kind contributions from the state and local governments.

In *United States v. Idaho*, the United Supreme Court ruled that the State of Idaho was not authorized under a 1952 federal statute to charge filing fees to the United States when it files water rights claims on its own behalf or as trustee on behalf of Indian tribes. NARF represents the Nez Perce Tribe of Idaho in these proceedings and filed an *amicus curiae* brief in the case in support of the United States.

As a leading member of the American Indian Religious Freedom Coalition and counsel to the Native American Church of North America, NARF was pleased to see several years of effort result in the introduction of the Native American Free Exercise of Religion Act in the United States Senate (S.1021). The bill would provide protection to Native American sacred sites located on former tribal lands now considered to be federal lands and to the Native American Church's sacramental use of peyote. The United States Supreme Court refused to extend First Amendment free exercise of religion constitutional protections to sacred sites and the Native American Church in 1988 and 1990 decisions. The bill would also improve Native American access to sacred eagle feathers and protect the religious rights of Native American prisoners.

Building on NARF's previous success in helping the Rosebud Sioux Tribe develop a tribal education code, NARF began a new project in 1993 to advance Native American rights in education by emphasizing the legal rights of tribes to control the formal education of tribal members in all types of reservation schools — federal, state and tribal. NARF has begun advising tribes on the development of tribal education laws and improvements in the educational achievements of Indian children are expected.

Through these and other important case developments in fiscal year 1993, NARF illustrates that Native Americans can receive justice if they are provided with representation. Since 1970, NARF has provided this access to justice and made the legal process work for the benefit of Indian people. We thank you for your help and encourage you to maintain your support of our program of national Indian legal representation on the critical issues.

John E. Echohawk  
Executive Director

1993 marked the 23rd year that the Native American Rights Fund has provided legal advice and representation to Indian tribes, organizations and individuals on issues of major significance to Indian people throughout the country. Once again, the legal assistance provided by NARF resulted in several important legal victories for Native American people during the 1993 fiscal year.

In *Oklahoma Tax Commission v. Sac and Fox Nation*, the United States Supreme Court held that Oklahoma could not levy automobile excise taxes or income taxes on Sac and Fox tribal members who live and work on Indian trust lands. The Court rejected Oklahoma's position that it had jurisdiction because there are no reservations in Oklahoma. NARF filed an *amicus curiae* brief in the case on behalf of the Cheyenne-Arapaho Tribe of Oklahoma in support of the Sac and Fox Nation and assisted the Nation in securing the support of the United States before the Court.

In an important Alaska tribal sovereignty case, the federal district court in Alaska ruled in *Alyeska Pipeline Service Company v. Kluti Kaah Native Village of Copper Center* that the Village may well have tribal status with sovereign tribal authority to tax the Trans-Alaska Pipeline System, which runs through Alaska Native lands, and called for a trial on these issues. Oil companies are trying to stop the Village from

## CHAIRMAN'S MESSAGE

these problems. For those tribes without any natural resources to help them develop a strong economic development base, the Supreme Court's 1987 decision in *California v. Cabazon Band of Mission Indians* upholding tribal gaming, followed by the passage of the National Indian Gaming Regulatory Act of 1988, provided these tribes with alternative funding sources to address these problems. As sovereigns, some tribal governments elected to explore the idea of gaming on their reservations in order to raise the resources necessary for improving the health, education and economic development activities in their communities. This idea was not new as many state governments had already passed laws authorizing the operation of lotteries so that profits could be used for governmental or public finance. Like the states, the tribes earmarked all revenue generated by tribal gaming activities to go directly to providing and improving governmental services for Indian people.

Although the Indian gaming industry represents less than three percent of the entire gambling industry nationwide, tribal gaming activities have been successful on many reservations. Gaming revenues have enabled tribes to build schools, water and sewer systems, health clinics and housing within their reservations. Indian gaming has helped to reduce unemployment by creating more than 30,000 jobs nationwide, most which are held by non-Indians. The surrounding non-Indian communities have also profited, not only with employment opportunities, but with the growth of ancillary businesses. This growth has contributed to additional employment and sales and has contributed to generating a larger tax base to strengthen the local non-Indian governments. Tribal gaming has also made it possible for tribes to support local and national charities like the Native American Rights Fund.



Artwork: Ken "Rainbow Cougar" Edwards

The Native American Rights Fund often receives inquiries about the tribal role in gaming. As Chairman of the Board of Directors of the Native American Rights Fund and Chairman of the Mashantucket Pequot Tribe of Connecticut, which is involved in gaming, I want to share my perspective on this issue.

Taking responsibility for and improving the health, education and social welfare of tribal members have always been the main priorities of tribal leaders and tribal governments. As history can attest, Indian tribes have never been placed in a position, geographically or politically, to reap the dreams and fortunes that this society professes. Tribes have traditionally been kept in poverty, and contrary to the beliefs of the majority of people in this country, Indian people actually receive less assistance from the federal government than do other United States citizens. The average citizen would find this fact hard to believe, but all one has to do is to look at the poverty, lack of health care, low educational attainment and high unemployment rates on reservations to understand that the federal government does not take care of Indian people from cradle to grave.

Throughout the years, given limited funds and ineffective federal programs, tribes have struggled with ways to resolve

Gaming may not be the permanent answer, or the only means to address and resolve the issues that keep Indian tribes in poverty, but it has given some of us the knowledge and the resources to explore other means of economic development. Our experiences in this arena have also given us the confidence that our tribes can become viable business partners and we can continue to build strong tribal governments that will have the expertise and resources to address the needs of our people.

Although the Native American Rights Fund has not been needed in establishing Indian gaming since filing an *amicus curiae* brief in the United States Supreme Court in *California v. Cabazon Band of Mission Indians* because gaming tribes can afford to hire their own lawyers, NARF has been instrumental in assisting many tribes in developing and strengthening their tribal governments, tribal courts and in exploring sound economic development efforts. NARF has continued in its commitment, as a national leader, by helping tribes realize their full potential in providing a productive future for their tribal members. Through NARF's resources and with the development of tribal business expertise, tribes may very well have a bright future.

Richard Hayward  
Chairman



Photo: Thorney Lieberman

## BOARD OF DIRECTORS

Upon the formation of the Native American Rights Fund, a governing board was assembled composed of Indian leaders from across the country — wise and distinguished people who were respected by Indians nationwide. Since that time, the NARF Board of Directors has continued to provide NARF with leadership and credibility and the vision of its members has been essential to NARF's effectiveness in representing its Native American clients.



Artwork: Ken "Rainbow Cougar" Edwards

**SECOND ROW:** (left to right) Willie Kasayulik, Yupik, Alaska; Mahealani Kamauu, Native Hawaiian, Hawaii; Calvin Peters, Squaxin Island, Washington; Anthony L. Strong (Vice Chairman), Tlingit-Klukwan, Alaska; Rick Hill, Oneida, Wisconsin; Richard Hayward (Chairman), Mashantucket Pequot, Connecticut; Eddie Tullis, Poarch Band of Creeks, Alabama.

**FRONT ROW:** (left to right) Mildred Cleghorn, Fort Sill Apache, Oklahoma; Evelyn Stevenson, Salish-Kootenai, Montana; Twila Martin Kekahbah, Turtle Mountain Chippewa, North Dakota; Verna Williamson, Isleta Pueblo, New Mexico.

**NOT PICTURED:** Lionel Bordeaux, Rosebud Sioux, South Dakota; John R. Lewis, Mohave/Pima/Tohono O'Odham, Arizona.



## NARF NATIONAL SUPPORT COMMITTEE

The National Support Committee was established in 1978 to assist NARF with its fundraising efforts nationwide. Some of the individuals on the Committee are prominent in the field of business, entertainment and the arts. Others are known advocates for the rights of the underserved. All of the 36 volunteers on the Committee are committed to upholding the rights of Native Americans.

Owamoh Anderson *(Cherokee)*  
 Edward Asner  
 Katrina McComack Bumpen  
 David Brubaker  
 Senator Ben Nighthorse Campbell  
*(Northern Cheyenne)*

Harvey A. Deenunberg  
 Michael Donner *(Modoc)*  
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 Studs Terkel  
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 Teraya Torres *(Chiricahua Apache)*  
 Thomas N. Turem  
 The Rt. Rev. William C. Wantland  
*(Seminole)*  
 Dennis Weaver  
 W. Richard West, Jr. *(Cheyenne)*

## NARF STAFF

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 Marilyn E. Pourier *(Oglala Sioux)*  
 Director of Development  
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Richard B. Collins  
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Photo: © 1988, NARF, Inc.





NARI MAIN OFFICE

Photo: Theresa Lebrun

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Michel McKenzie  
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Debbie Raymond-Thomas (Navajo)  
Assistant Director

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Research Assistant  
Sarah E. Wadleigh  
Librarian Assistant

\* Resigned during the fiscal year

## THE PRESERVATION OF TRIBAL EXISTENCE



Photo: Bert Gildart

Moses Sam, village elder, Arctic Village, AK

The most critical issue facing Indian tribes today is the preservation of their existence as governmental entities with all the power and authority that governmental status entails. Thus, the focus of NARF's work involves issues relating to the preservation and enforcement of the status of tribes as sovereign, self-governing bodies. For some tribes, the issues are very basic — persuading the federal government to recognize their status as tribes — or in some cases, convincing Congress to reverse the termination of their tribal status and restore them as tribes. NARF also continues its work in the area of Indian economic development in appreciation of the fact that the future of tribal existence is closely tied to the development of tribal economies.

### Tribal Sovereignty

Tribes possess the power to regulate the internal affairs of their members and the activities within their reservations, since they are sovereign governments. Conflicts often arise with states, the federal government, and others over tribal sovereignty. During 1993, NARF handled several major cases that affected the sovereign powers of tribes. These cases involved serious issues of taxation and jurisdiction in several states.

In *Mustang Fuel Corp. v. Cheyenne-Arapaho Tax Commission*, NARF is defending the Tribe's right to generate needed tribal government revenues by taxing production and severance of oil and gas on allotted lands held in trust for tribal members. Several affected oil companies filed a lawsuit challenging the Tribe's right to tax them. The oil companies filed suit in an Oklahoma federal court, but then agreed that federal law required them to bring the action first in tribal court. The case was remanded to tribal court, making it the first major tribal tax case to be heard by a tribal court. The Cheyenne-Arapaho Tribal Court ruled in favor of the Tribe, upholding the Tribe's authority to tax oil-and-gas activities on trust allotments. The oil companies appealed to the Tribal Supreme Court. NARF argued this case for the third time during the year.

On behalf of the Cheyenne-Arapaho Tribe of Oklahoma, NARF filed an *amicus curiae* brief in support of the Sac and Fox Nation in the United States Supreme Court in *Oklahoma Tax Commission v. Sac and Fox Nation* and assisted the Sac and Fox Nation in securing the support of the United States before the Court. In May, 1993, Indian tribes won a major victory when the Court ruled in the case that Oklahoma could not levy automobile excise taxes or income taxes on Sac and Fox tribal members who live and work on

Indian trust lands. The Court rejected Oklahoma's position that it had jurisdiction because there are no reservations in Oklahoma.

In another tribal court jurisdiction case, *A-1 Contractors v. The Honorable William Strate*, after the Tribal Court for the Three Affiliated Tribes of the Fort Berthold Indian Reservation in North Dakota found that it had jurisdiction over a personal injury action arising between two non-Indians on the reservation, one of the non-Indians challenged the Tribal Court decision in federal court. NARF undertook representation of the Tribal Court in the federal proceedings. The federal district court upheld NARF's position that the Tribe had jurisdiction, holding that tribes have jurisdiction over civil cases arising on Indian land regardless of the race or political status of the parties. *A-1 Contractors* appealed to the Eighth Circuit Court of Appeals and oral argument was held in June, 1993.

In the State of Alaska, NARF continued representing the Kluti Kaah Native Village of Copper Center, a traditional tribe, in its effort to collect tribal taxes from several oil companies. In *Alyeska Pipeline Service Co. v. Kluti Kaah Native Village of Copper Center*, the oil companies sued to enjoin the Village from enforcing its tax ordinance, claiming that Kluti Kaah was not a federally-recognized tribe and, thus, lacked taxing authority. In July, 1993, the federal district court in Alaska held that the Village may well have tribal status with sovereign tribal authority to tax the Trans-Alaska Pipeline System which runs through Alaska Native lands and called for a trial on those issues. NARF has represented the Village since 1985.

NARF also represents the Native Village of Venetie in a tribal tax case which again raises the issues of tribal status and whether the Native villages constitute "Indian Country" enabling the tribal government to exercise governmental powers. A trial has been held and a decision is now pending.

NARF successfully implemented the Nome Eskimo Community's exemption and immunity from local municipal taxes when no appeal from the Alaska Supreme Court's final decision in favor of the Nome Eskimo Community was made.

In October, 1993, in an action directly related to the above cases, the Assistant Secretary for Indian Affairs announced the publication of a new list of 226 federally-recognized tribes in Alaska. This historic event, for 95,000 Alaska Natives, was also a major and critical step toward eliminating thirty years of overt discrimination against Alaska Native village governments. The operative language of this act makes clear that Alaska Native villages have the same tribal status as tribes in the contiguous 48 states. It provides that they have the same governmental status as other federally-acknowledged Indian tribes with a government-to-government relationship with the United States. They are entitled to the same protection, immunities, and privileges as other acknowledged tribes; have the right, subject to general principles of Federal Indian law, to exercise the same inherent and delegated authorities available to other tribes; and are subject to the same limitations imposed by law on other tribes. With this issue now resolved, NARF is working on behalf of its clients to resolve whether the villages are "Indian country" and thus have the same powers as tribes on reservations in the contiguous 48 states.

NARF continued its assistance to Kawerak, and the sixteen villages which comprise its membership, and the Village of Kotzebue in Alaska to obtain tribal jurisdiction over Indian Child Welfare Act matters and to adjudicate child custody disputes in tribal courts. NARF provided the tribes with assistance in monitoring Indian Child Welfare Act cases and in asserting tribal authority in state proceedings. NARF also developed strategies to use tribal courts in implementing the Tribal Employment Rights Ordinance for the purpose of regulating employment within the Kawerak region.

## Indian Economic Development Law Project

The Indian Economic Development Law Project has continued its work of previous years. Areas of particular emphasis for the Project have been the development of an independent source of revenue from which to fund locally derived priorities and development — i.e. a tribal tax base; and, the development of increased capability to exercise control over the integrity of tribal homelands as they affect the health and the environment of Indian country residents. These are, of course, part of the larger effort to secure to tribes control over their resources and opportunities.

The Project also continued its work in a number of areas, including: development of an Economic Self-Sufficiency Plan for the Klamath Tribe of Oregon; focus and work on equitable funding for tribes from the Environmental Protection Agency; work with the Tribal Leaders Forum to assist in forging a national Indian agenda for the 1990s; analysis of issues raised in developing the positions for significantly increased support for tribal judiciaries; assisting tribes in the incorporation of the Intertribal Transportation Association; and on-going organizational assistance to the newly-formed National Tribal Environmental Council, a tribal organization which is beginning to play a lead role in tribal environmental policy development.

NARF's hope is that the Project will be able to focus its efforts in the coming year in the areas of tribal tax code development and environmental integrity in reservation settings.

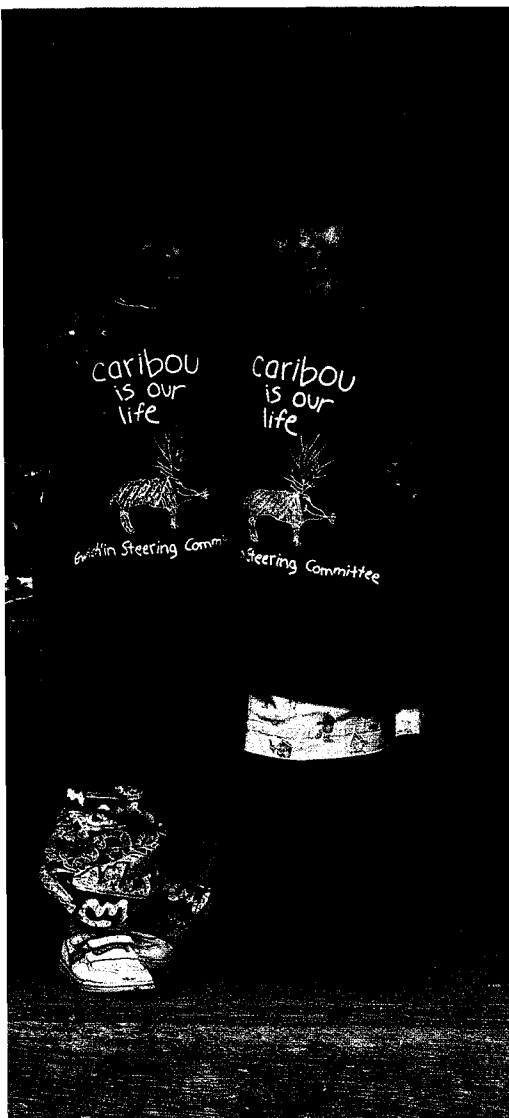


photo: Bert Gildart

Upcoming Generation

## Federal Recognition and Restoration

NARF currently represents seven Indian communities who have survived intact as identifiable Indian tribes, but who are not federally recognized. These Indian tribes, for differing reasons, do not have a government-to-government relationship between themselves and the federal government. Traditionally, federal recognition was accorded to a tribe through treaty, land set aside for a tribe, or by legislative means. The majority of these NARF clients are seeking an administrative determination by the Department of Interior that they, in fact, have continued to exist as Indian tribes from the time of significant white contact to the present day and have con-

tinued to govern themselves and their members. NARF, therefore, prepares the necessary historical, legal and anthropological documentation to support a petition for acknowledgment.

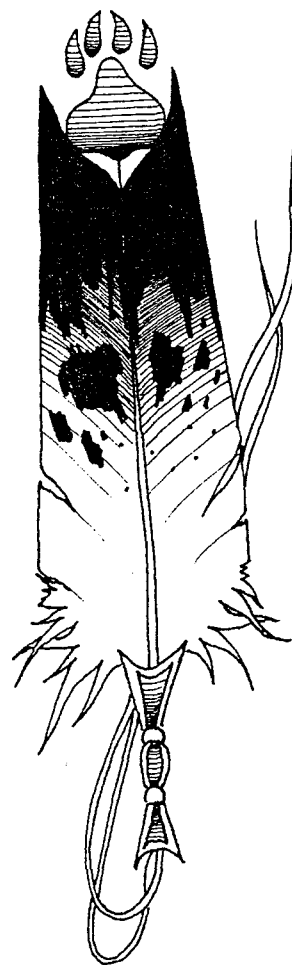
For more than 100 years, these Indian communities have been foreclosed from the benefits of a formal federal relationship with the federal government. Through administrative acknowledgment, NARF is now trying to bridge that gap. NARF is assisting the San Juan Southern Paiute of Arizona, the Little Shell Tribe of Chippewa Indians of Montana, the Mashpee Wampanoag Tribe of Massachusetts, the Houma Tribe of Louisiana, the Shinnecock Tribe of New York, the Pamunkey Tribe of Virginia, and the Miami Nation of Indians of Indiana in the federal acknowledgment process.

One of these tribes, the San Juan Southern Paiute Tribe, had their federal recognition affirmed by the United States District Court of Arizona when a challenge to recognition by the Department of the Interior was dismissed. Federal recognition for the San Juan Southern Paiute is now final, as no appeal was taken in 1993 from the District Court's 1992 dismissal of challenges to the Tribe's federal acknowledgment.

In *Miami Nation of Indians v. Babbitt*, NARF is challenging the Department of Interior's denial of the Miami Nation's petition for federal recognition. An Indiana federal district court rejected the Miamis' claim that they were recognized by an 1854 treaty and have never been terminated, but is currently considering other Miami claims that the Interior Department erroneously rejected their petition by misapplying the criteria that must be met for recognition.

NARF continues to work with Congress to reform the present acknowledgment process of the Department of the Interior, through legislation, to overcome the increasing problems of bureaucratic delays, unequal treatment in evaluation of petitions, lack of an independent appellate process, and non-standardized criteria.

Without Congressional attention to these issues, NARF predicts that its clients will be waiting for federal acknowledgment well into the 21st century. H.R. 2549, a bill to codify the current federal recognition criteria with the addition of a new criterion, which would require petitioning tribes to demonstrate political influence over territory they have occupied, was introduced in the House this year. NARF and its client tribes believe that this proposed criterion would only further complicate the federal recognition process, so, on behalf of these tribes, NARF has submitted a draft recognition bill for review by Congressional committees, which it believes will address the shortcomings of H.R. 2549. NARF, the National Congress of American Indians, and the Tribal Leaders' Forum are also continuing to work with the Department of Interior on extending the period for the final publication of the rules for federal recognition.



Artwork: Ken "Rainbow Cougar" Edwards

## THE PROTECTION OF TRIBAL NATURAL RESOURCES

The protection of tribal natural resources is closely linked to the preservation of tribal existence. Without a sufficient natural resource base to sustain it, the practice of tribal sovereignty is difficult. NARF helps Indian people to establish and maintain ownership and control of land and to assert their rights to water and hunting and fishing.

### Protection of Indian Lands

In October, 1993, Congress passed and President Clinton signed the Catawba Indian Land Claim Settlement Act of 1993, thus resolving the Catawba Tribe's claim to 144,000 acres of land in South Carolina. Since 1975, NARF has been asserting on behalf of the Tribe that the land was taken illegally by the State in 1840 in violation of the 1790 Non-intercourse Act, which requires federal approval of Indian land transactions. The settlement provides for payment to the Tribe of \$50 million over a 5-year period from federal, state, and local governments and private contributors and restores tribal status which had been terminated by the federal government in 1959. The settlement funds will be placed in tribal trust funds dedicated to land acquisition, economic development, education, social services and elderly assistance, and annual per capita distribution. The settlement also effectuates a comprehensive

jurisdictional compact between the Tribe and the State and calls for additional in-kind contributions from the State and local governments. This settlement essentially resolves both *Catawba Indian Tribe v. South Carolina* and *Catawba Indian Tribe v. United States*.

NARF has represented the Alabama-Coushatta Tribe of Texas since 1981 in its lawsuit against the United States for breach of trust. In *Alabama-Coushatta v. United States*, the Tribe is suing the United States for its failure to protect the Tribe's possession of its 6.5 million acres of aboriginal territory. The Tribe is pursuing a money-damages claim against the United States under a Congressional Reference resolution that permits the Tribe to bring its claim before the United States Court of Federal Claims under the Indian Claims Commission Act. Earlier in the year, the substitute trial judge issued a ruling that followed the original trial judge's decision against the Tribe, but which appeared to directly contradict a specific order of the Review Panel in favor of the Tribe. Although the substitute judge ultimately ruled against the Tribe, he found in favor of the Tribe on a number of important subsidiary issues. The Tribe appealed the substitute judge's ruling.

In *Cheyenne-Arapaho Tribe v. United States*, NARF was successful before the Tenth Circuit Court of Appeals in establishing that the Bureau of Indian Affairs illegally

extended the term of three tribal oil-and-gas leases in Oklahoma at below market value rates without tribal consent. The Tribe wants the right to negotiate its own leases at fair, competitive rates. The Court's decision affirmed the federal government's fiduciary duty to manage Indian trust lands prudently and recognized the Tribe's role in securing competitive prices for its resources. The case is currently pending in Oklahoma federal district court on the issue of the amount of damages owed to the Tribe.

NARF represents the San Juan Southern Paiute Tribe of Arizona in the consolidated cases of *Masayesva v. Zah v. James and Navajo Tribe v. U.S. v. San Juan Southern Paiute Tribe*. The United States District Court for Arizona affirmed the federal government's recognition of the Paiute's status as an Indian tribe and held that NARF had established 75 acres for the Paiute's exclusive use, and that it had shown joint use with the Navajo Tribe of approximately 48,000 acres of disputed land in northern Arizona. NARF is currently assisting the Tribe in seeking authority from Congress to partition the joint use area. NARF has also filed a notice of appeal to the Ninth Circuit for the Tribe on their land claim. In the meantime, settlement talks are continuing between the tribes and the Ninth Circuit mediator.

NARF assisted the Swinomish Tribe in preparing for trial in a major land rights case in the State of Washington. In *Swinomish Tribal Community v. Burlington Northern, Inc.*, the Tribe sought to regain tidelands and other submerged lands adjoining the uplands on its Reservation. A settlement favorable to the Tribe was reached before trial, however, and the case was dismissed. Under terms of the settlement, the Tribe will be able to purchase the land owned by the last opposing party which will clarify title to the disputed land.

NARF is assisting the Potawatomi Nation in Canada in obtaining a forum in the United States for consideration of the merits of the Tribe's claim for compensation for outstanding treaty entitlements. For the past 100 years, the Tribe has been trying unsuccessfully to obtain the compensation it believes is due to it under 12 treaties concluded between the Potawatomi and the United States between 1795 and 1846. These treaties provided for annuities and compensation for cessions of land. NARF is seeking legislation that would permit the Tribe to bring an action in the United States Court of Federal Claims against the United States.

The Stockbridge-Munsee Tribe of Wisconsin is represented by NARF in their claim to former tribal lands in New York State. NARF has also assisted the Pamunkey Tribe of Virginia to establish the boundaries of its reservation.

The Penobscot Indian Nation of Maine was advised by NARF relative to the Tribe's involvement in a number of Federal Energy Regulatory Commission relicensing proceedings in the Penobscot River basin.

## Water Rights

Under the precedent established by the United States Supreme Court in 1908 in the case of *Winters v. United States* and confirmed in 1963 in *Arizona v. California*, Indian tribes are entitled, under federal law, to sufficient water for present and future

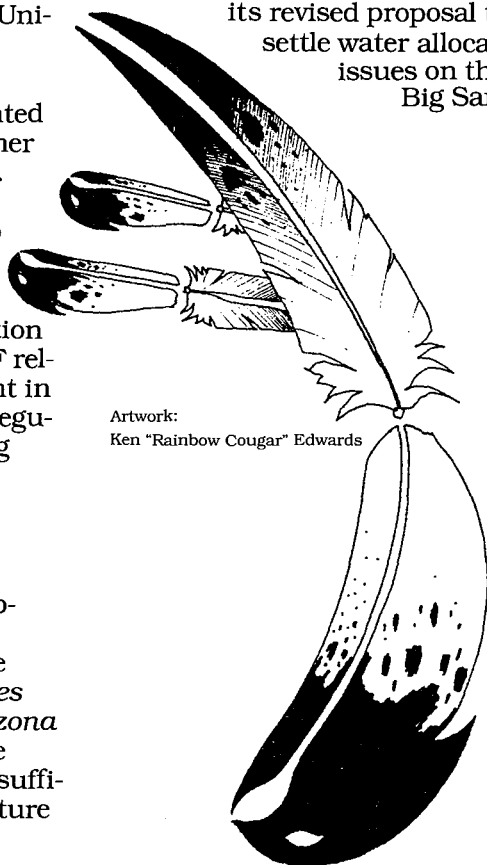
needs, with a priority date at least as early as the establishment of their reservations. These tribal reserved water rights are superior to all state-recognized water rights created after the tribal priority date, which in most cases will give tribes valuable senior water rights in the water-short West. Unfortunately, most tribes have not utilized their reserved water rights and most of these rights are adjudicated or unquantified. As a result, tribal water claims constitute the major remaining water allocation issue in the West, with approximately 50 lawsuits pending in the western states involving these claims. The major need in each case is to define or quantify the exact amount of water to which each tribe is entitled. NARF pursues these claims on behalf of tribes through litigation or out-of-court settlement negotiations.

NARF is asserting the Chippewa-Cree Tribe's rights to water flowing on and through its reservation in Montana. In 1993, the Tribe, the Montana Reserved Water Rights Compact Commission, and the federal government resumed formal negotiations to settle the Tribe's reserved water rights. The Tribe has now released its revised proposal to settle water allocation issues on the Big Sandy,

Box Elder and Beaver Creek drainages. The proposal calls for reserved water rights for irrigation and non-irrigation uses. Non-irrigation uses include municipal, commercial, and domestic systems and future development of fish and wildlife habitat.

In *United States and Klamath Tribe v. Oregon*, the Klamath Tribe, upon the threat that it will forever waive its water rights, is being forced by the State of Oregon to quantify its reserved water rights, in order to protect its treaty hunting and fishing rights. Protection of this irreplaceable natural resource is crucial to the cultural survival of the Tribe. NARF continues to assist the Klamath Tribe in obtaining and reviewing the hydrological, biological, and other studies necessary to quantify the Tribe's reserved water rights. NARF also represents the Tribe in an on-going court battle to determine whether state or federal courts have jurisdiction over this important issue, which is pending in the Ninth Circuit Court of Appeals. This complex case, which affects the environmental integrity of thousands of miles of habitat living on the banks of the Upper Klamath River Basin, has involved close coordination with officials from the United States Departments of Interior and Justice, who, as trustee, are asserting water rights claims on behalf of the Tribe.

NARF is assisting the Tule River Tribe of California in validating their claim to surface and ground water. The Tribe's water rights have never been adjudicated and its domestic water system, which serves 650 tribal members residing on the reservation, is inadequate to meet the Tribe's basic domestic needs. The Tribe's water rights are uncertain due to a 1922 agreement between the Secretary of the Interior and a non-Indian irrigation company, which purportedly limited the Tribe's right to divert water from the South Fork Tule River. NARF is currently reviewing the potential claims of the non-Indian water users and the possibility of challenging the agreement of 1922. NARF finalized a conceptual water development plan for the Tule River Reservation that would



Artwork:  
Ken "Rainbow Cougar" Edwards

maintain a water delivery storage system to provide enough water to the Tribe to develop a sustainable homeland.

NARF is also assisting the Nez Perce Tribe of Idaho to secure reserved water rights in the Snake River Basin. The United States and the Tribe filed water rights claims in state court in March, 1993, hoping to secure sufficient water for instream flows to protect tribal fisheries and for domestic and irrigation uses. Filing of the claim was the culmination of over five years of work and cooperation between the Tribe and the United States.

In May, 1993, the United States Supreme Court ruled, in *United States v. Idaho*, that the State of Idaho was not authorized to charge filing fees to the United States under the 1952 federal statute allowing state court adjudications of federal and Indian reserved water rights. Idaho had sought filing fees from the United States for filing reserved water rights claims as trustee on behalf of the Nez Perce Tribe and NARF had filed an *amicus curiae* in the Supreme Court in support of the United States.

NARF was successful in implementing the Fort McDowell Indian Community Water Rights Settlement Act of 1990 by finalizing the necessary consent decree and agreements in 1993. The settlement provides the Fort McDowell Indian Community, represented by NARF, with 36,350 acre-feet of water from the Verde River, a \$25 million settlement fund and a \$13 million loan to assist the Tribe in putting its water to use.

In September, 1993, NARF successfully co-sponsored with the Western States Water Council the third annual symposium on the settlement of Indian reserved water rights claims. There is growing interest among Indians and non-Indians in resolving Indian water rights issues through out-of-court settlements and the symposium responds to that interest by featuring speakers who themselves have been involved in some of the Indian water rights settlements that have recently been successfully negotiated.



Photo: Bert Gildart

## Hunting and Fishing

The right to hunt and fish in traditional areas, both on and off reservations, and for both subsistence and commercial purposes, remains a vital issue in Indian country. NARF has long been instrumental in assisting tribes to assert hunting and fishing rights, which are guaranteed by treaty or other federal law.

NARF is assisting the Skokomish Tribe in the State of Washington to intervene in the City of Tacoma's proceeding for the relicensing by the Federal Energy Regulatory Commission of

the Cushman Dams on the Skokomish River. The Skokomish Tribe holds treaty reserved fishing rights in the Skokomish River. The Cushman Dams, built in 1926 and 1930, have effectively eliminated all salmon habitat for about 17.5 miles above and below the dams. The Tribe seeks compensation for damage done and mitigation measures to restore the Tribe's fishery. The Tribe has initiated negotiations with the City of Tacoma through use of preliminary data which shows that the dams can be operated to put water back into the river and still produce hydropower for the City of Tacoma at a profit.



Noatak v. Hoffman — Accountability  
& Recognition

Kotzebue — Tribal Jurisdiction

Nome Eskimo Community — Subsistence  
& Hunting Rights, Taxation

Gambell v. Lujan  
Subsistence &  
Aboriginal  
Land Title

ALASKA

State of Alaska v. Venetie — Taxation

Rosebud Sioux Tribe —  
Education (South Dakota)

Turtle Mountain  
Indian Reservation —  
Tax Code & Judgement  
Fund Claim  
(North Dakota)

**NARF ANCHORAGE  
OFFICE**

Larsen Bay — Taxation

Kluti Kaah v. Rosier; Alyeska v. Kluti  
Kaah — Subsistence & Taxation

John v. U.S. —  
Hunting & Fishing  
Rights, Subsistence

Swinomish Tribal Community — Land  
Claim (Washington)

Skokomish Tribe — Fishing Rights  
(Washington)

Nez Perce Tribe — Water Rights (Idaho)

Klamath Tribe — Water Rights & ESSP  
(Oregon)

Tule River Tribe — Water Rights  
(California)

Masayesva v. Zah v. James v. San Juan  
Southern Paiute Tribe — Recognition  
& Land Claim (Arizona)

Fort McDowell Tribe — Water Rights  
(Arizona)

**NARF HEADQUARTERS  
BOULDER, COLORADO**

Chippewa-Cree Tribe —  
Water Rights (Montana)

Little Shell Tribe —  
Recognition (Montana)

Pele Defense Fund v. Paty —  
Aboriginal Rights (Hawaii)

HAWAII

Cheyenne-Arapaho Tribes v. U.S. —  
Jurisdiction & Claims (Oklahoma)

Mustang v. Cheyenne-Arapaho Tribe —  
Jurisdiction (Oklahoma)

Kauley v. U.S. — Federal  
Responsibilities (Oklahoma)

# MAJOR ACTIVITIES 1953

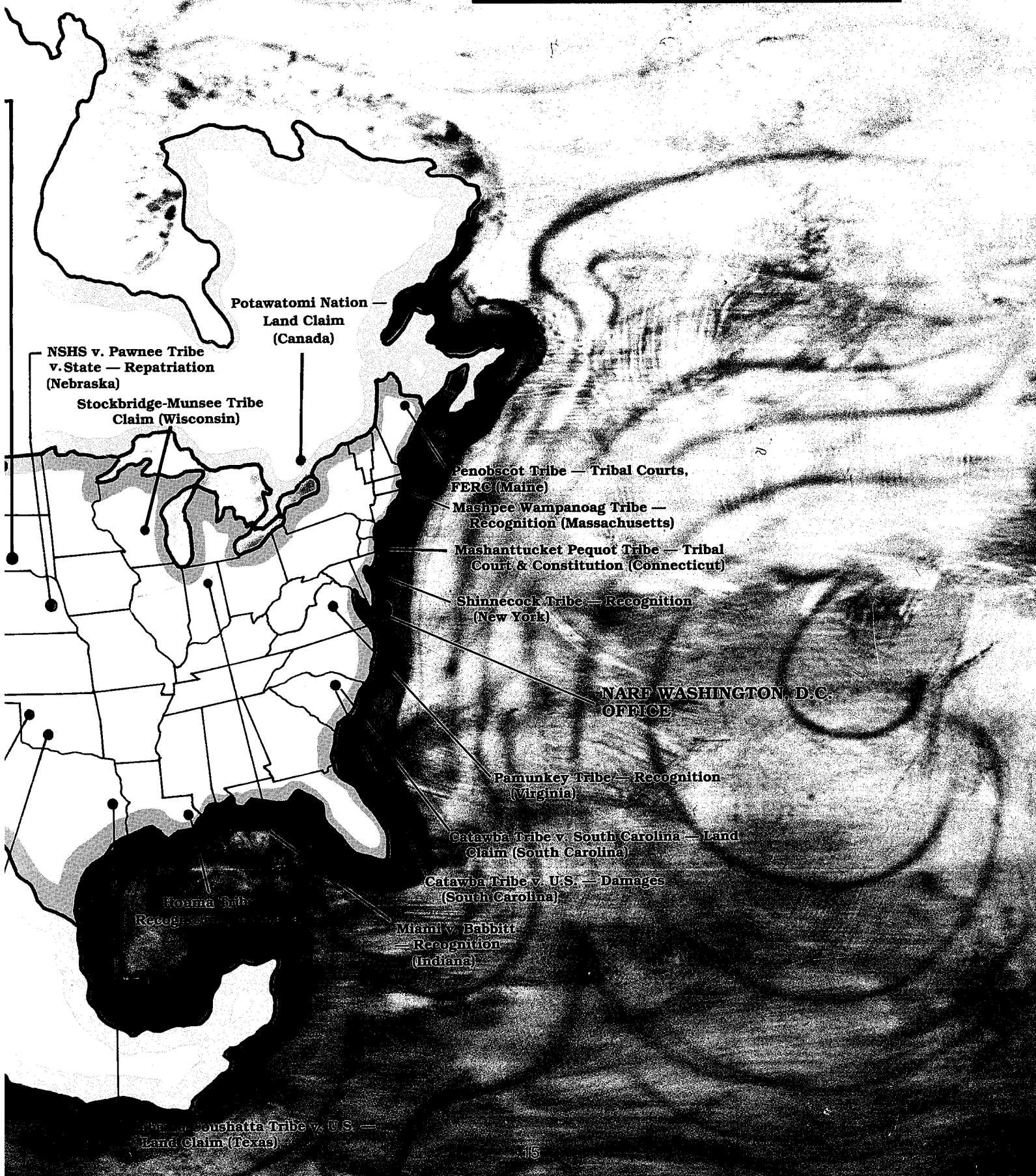




Photo: Paul Joseph Brown

NARF is representing the eleven Native villages in the Norton Sound area of Alaska in establishment of their aboriginal right to hunt and fish on the Outer Continental Shelf (OCS) in *Gambell v. Lujan*. In July, 1993, the Ninth Circuit Court of Appeals dismissed the case on the grounds that the oil and gas leases challenged had been relinquished so the issue was moot. Meanwhile, in the companion case *Nome Eskimo Community v. Lujan* seeking declaratory judgment confirming that the Native villages own aboriginal title to their respective hunting and fishing grounds on the OCS and enjoining the Secretary of the Department of Interior from holding a gold lease sale in that area, the Secretary canceled the sale because no bids were received. This case was likewise dismissed on grounds of mootness, but the Villages are exploring other ways of asserting their aboriginal title claims.

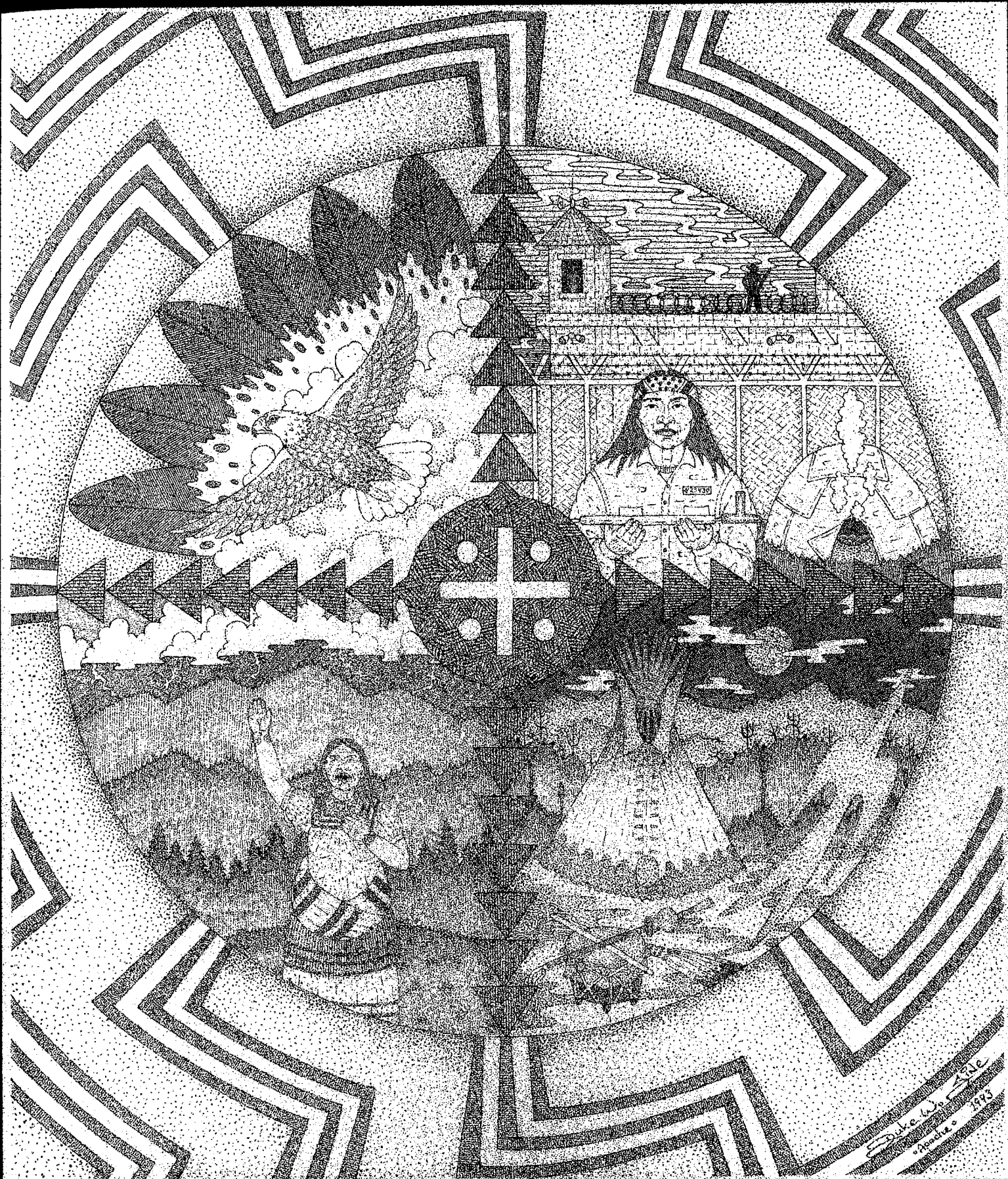
In *Kluti Kaah Native Village of Copper Center v. Rosier*, NARF is assisting the Village in changing state and federal regulations governing the subsistence harvests of caribou and moose in the Copper River Basin. NARF argues that the Board of Game violated the state subsistence law by failing to provide a "reasonable opportunity" to satisfy subsistence needs. Challenges to 1991 and 1992 regulations that had been stayed were dismissed as moot in 1993. The Alaska Board of Game then adopted a season of 30 days for the 1993 season that allows the harvest of bull moose. A decision by the district court on the harvest of caribou is still pending.

NARF continues to assert subsistence fishing rights for Alaskan Native subsistence users from Mentasta Village and Dot Lake in *Katy John v. United States*. A federal court had previously granted a preliminary injunction permitting subsistence fishing on a full-time basis at the

Joe Edwards, at 80 an elder of the Skokomish, contemplates what remains of a fishing hole that he and his family frequented in the years before the first dam was built on the North Fork of the Skokomish River. Since the construction of the dams, the salmon runs of the river, which the Skokomish called "the womb of the fish," have dwindled to the point of near extinction.

traditional site of Batzulnetas. The State of Alaska filed a lawsuit challenging the assertion of any federal jurisdiction over the waters in Alaska, including the Batzulnetas. NARF disputes the State's claim of management authority over subsistence fishing rights on navigable waters on public land. NARF has also approached the United States to accept this management authority.





American Indian Religious Freedom

## THE PROMOTION OF HUMAN RIGHTS

In 1993, NARF provided assistance in several matters involving religious freedom and education. NARF, on behalf of its clients, seeks to enforce laws which are designed for the unique needs and problems of Native Americans in this area.

### Religious Freedom

The Native American Rights Fund has been deeply concerned about some of the Supreme Court's recent decisions impacting First Amendment guarantees. The decisions point the way to what amounts to a crisis: denying religious freedom for Native Americans. Religious freedom is a basic human right for all Americans. Religious freedom for Native Americans is especially important because it is the underpinning of Indian culture itself. Tribal religion pervades the way of life of traditional Native communities. For Indian people, religion and culture are "inseparable" as Congress correctly found in the American Indian Religious Freedom Act "findings clauses" in 1978.

Because religion is the foundation that holds Native communities and cultures together, religious freedom is a NARF priority issue that cuts across many of its priorities, such as tribal existence, sovereignty, and human rights. As a result, NARF has utilized its resources to protect First Amendment rights of Native American students, prisoners, and members of the Native American Church; and tribes in repatriating burial

remains, and in protecting sacred sites. Since Native American religious freedom affects basic cultural survival of Indian tribes, NARF believes that American law and social policy must provide adequate legal protection.

*"We are the  
people of  
prayers, who  
stand small  
before the  
Creator, who  
entreat him, so  
that the strand of  
time that holds  
us to eternity  
might not be cut  
and our words  
slip into  
silence."*

**Debra Calling Thunder**

When Congress passed the American Indian Religious Freedom Act ("AIRFA") in 1978, there was hope that protection of Native worship at sacred sites would be incorporated into American law and social policy since Congress recognized the need to protect such worship at that time. However, since the passage of AIRFA, two recent Supreme Court cases have created a crisis in religious liberty for Native Americans: *Employment Div., Dept. of Human Resources of Oregon v. Smith* and *Lyng v. Northwest Indian Cemetery Assn.* These cases held that the First Amendment does not protect tribal religious practices and referred the task of protecting Native worship to Congress.

Since 1978, federal land managing agencies such as the Forest Service and the Park Service had repeatedly been allowed by the courts to destroy irreplaceable Native sacred sites despite AIRFA. The courts consistently have been unwilling to find any protection under the First Amendment or any statute. Finally, the struggle in the courts culminated in 1988, when the Supreme Court ruled in *Lyng* that Indians stand outside the purview of the First Amendment entirely when it comes to protecting tribal religious areas on former tribal lands now considered to be federal lands.

In 1990, the Supreme Court denied constitutional protection for an entire Indian religion of pre-Columbian antiquity, which

involves sacramental use of the cactus plant peyote, against state criminal prohibition of peyote use. For Indians who lost constitutional protection for worship in the name of the "Drug War", Smith was devastating. For the rest of society, Smith caused an outcry because it dramatically departs from First Amendment law, weakens the Free Exercise Clause and religious liberty, and makes it easier for the government to intrude upon freedom of worship. These cases not only pave the way for unchecked religious discrimination against Native Americans, who have already suffered a long and shameful history of government religious suppression, but they also seriously weaken religious liberty for all Americans.

To combat this injustice, NARF and other native organizations formed the American Indian Religious Freedom Coalition (which is presently composed of over 100 Indian tribes, native organizations, religious groups, environmental organizations and human rights groups) to develop and support federal legislation to overturn these Supreme Court cases and restore Native Americans to the protections of the First

Amendment. In May, 1993, Senator Daniel Inouye, Indian Affairs Committee Chairman, and other co-sponsors introduced the Native American Free Exercise of Religion Act of 1993 (S. 1021) ("NAFERA"), which has undergone intensive review by the Clinton Administration during the Summer and Fall. A Senate hearing in September, 1993, focused on constitutional issues concerning the bill, and other hearings are expected as the Senate begins the process of refining and moving the bill. House legislation is expected to be introduced by Native American Affairs Subcommittee Chairman Bill Richardson early in the Second Session as well. NARF represents the Native American Church of North America in this struggle.

NARF represents the Pawnee Tribe of Oklahoma in three separate repatriation cases as discussed below. The first case, *Nebraska State Historical Society v. Pawnee Tribe of Oklahoma v. State of Oklahoma*, was filed against the Tribe by the Nebraska State Historical Society in state court claiming that the Historical Society was not subject to the Nebraska Open Records law, as a tactic to avoid its repatriation duties under the Unmarked

Human Burial Sites and Skeletal Remains Protection Act. The second case is a Pawnee repatriation claim against the Nebraska State Historical Society under the Native American Graves Protection and Repatriation Act ("NAGPRA"). The third case is a Pawnee repatriation claim against the Smithsonian Institution's Natural History Museum under the National Museum of the American Indian Act.

In *Nebraska State Historical Society v. Pawnee Tribe of Oklahoma v. State of Nebraska*, the Historical Society had sought to block the Tribe's access to Historical Society records under the public records law. The Tribe sought the records to support additional tribal repatriation claims to Pawnee human remains and burial goods held illegally by the Historical Society. After a five-day trial, the Nebraska District Court ordered the Historical Society to comply with the state public records law and provide museum documents to the Pawnee Tribe. The Historical Society appealed the District Court decision. The case was pending before the Nebraska Supreme Court while periodic settlement negotiations were conducted in 1993.

*Nebraska Burial Matter* is a companion case with the public records litigation discussed above. In the burial matter case, NARF attorneys worked with the Pawnee Tribe and their experts in developing evidence to support the Tribe's claim to over 1,000 human remains and burial goods held by the Nebraska State Historical Society. About half of these remains, designated from the Central Plains Tradition, were dated from 900 A.D. to 1500 A.D. The Historical Society had refused to disclose certain records regarding the agency's treatment of these remains which led to the public records law litigation noted above. NARF assisted the Tribe in securing resolutions from the Wichita and Affiliated Tribes of Oklahoma and the Three Affiliated Tribes of the Fort Berthold Reservation, which have a cultural affiliation with the Pawnee Tribe, for joint-claim repatriation purposes and began negotiations with the Historical Society.



Photo: Thorney Leiberman

Medicine Wheel, Wyoming

NARF is continuing to represent the Pawnee Tribe in its repatriation claim against the Smithsonian Institution. The Tribe has had a pending request for the return of over 30 remains from the Smithsonian since August 1988 without any response or effort to negotiate from the Smithsonian. Since this time, another 17 remains have been identified as being ancestral to the Pawnee Tribe. In 1993, NARF continued to submit evidence of claims to the Smithsonian, on behalf of the Tribe, which document the Tribe's cultural affiliation to the remains in question.

NARF has continued to represent the Larsen Bay Community in Alaska in seeking appropriations to implement the Native American Graves Protection and Repatriation Act of 1990. Tribes and Native communities have agreed that a minimum of one-third of the appropriated funds would be earmarked for tribes, with the remaining amount primarily available for museums for inventory and related purposes.

## Education

Indian tribes are sovereign governments just as are their state and federal counterparts. Many federal reports and some federal and state laws have focused on Indian education problems. Some reports and laws have pointed out that increasing the role of tribal governments would help in addressing the problems. But instead of providing for active tribal government involvement, most federal and state education programs and processes circumvent tribal governments and maintain non-Indian federal and state government control over the intent, goals, approaches, funding, staffing, and curriculum for Indian education. There are no effective programs to establish tribal education codes or operate tribal education departments, though common sense dictates that tribal governments have the most at stake because education affects their children, their most precious resource, and the future of the tribe.

NARF historically has represented Indian clients on a variety of education issues. Most recently, NARF has represented the Rosebud Sioux Tribe of South Dakota in establishing a precedent-setting tribal education code and implementing that code through a tribal education department. NARF is now assisting the Tribe in developing procedure manuals for the education department; implementing teacher certification and school/program accreditation; and, in evaluating student performance for accountability and improvement.

NARF began a new project, the Indian Education Legal

Support Project in 1993. Building on NARF's success with the Rosebud Sioux tribal education code, the Project will advance Native American rights in education by emphasizing the legal rights of tribes to control the formal education of tribal members in all types of schools on reservations — federal, state and tribal. Formal education will be tribalized through the development of tribal education laws by NARF in conjunction with other Indian organizations and tribes. Improvements in the educational achievements of Indian children are expected as a result of increased tribal involvement.



Photo: Bert Gildart

Sandy Hopson, Arctic Village, AK



## THE ACCOUNTABILITY OF GOVERNMENTS

NARF works to hold all levels of government accountable for the proper enforcement of the many laws and regulations which govern the lives of Indian people. NARF continues to be involved in several cases which focus primarily on the accountability of the federal and state governments to Indians.

In the landmark case of *Native Village of Noatak v. Hoffman*, NARF is challenging the State of Alaska's position that the state cannot constitutionally allocate revenue sharing monies to tribal governments. NARF is asserting that the villages are tribes with the same status as Indian tribes in the lower 48 states and, therefore, they may be singled out for discrete beneficial treatment without running afoul of equal protection guarantees. The case went all the way to the United States Supreme Court and the Court ruled in 1991 that tribes may not sue states for money damages because of the states' sovereign immunity from suit. The case was remanded back to the Ninth Circuit Court of Appeals which then remanded these issues to the District Court to determine whether the villages retain viable claims for injunctive relief. The District Court issued an order dismissing the Village of Noatak's case on the ground of mootness in February, 1993, and NARF appealed.

In *Kauley v. United States*, NARF and Oklahoma Indian Legal Services represent individual Indian allottees in their effort to enforce the Federal Oil and Gas Royalty Management Act ("FOGRMA") of 1983. FOGRMA expressly vests the Secretary of Interior with the responsibility of administering federal and Indian oil and gas resources leased to private developers. The allottees alleged that the federal government had been negligent in administering the Act, thereby squandering the oil and gas resources and royalties of Oklahoma allottees. In 1991, the U.S. District Court for the Western District of Oklahoma approved the settlement agreement in favor of the individual Indian allottees. As a result of this settlement agreement, the Department of the Interior Minerals Management Service concluded preliminarily that oil producers owe an additional \$2 million in unpaid royalties to these allottees. NARF has continued to monitor the settlement agreement as two oil companies from Oklahoma have filed suit against the United States Department of the Interior challenging the calculation of additional royalties.

NARF and the Native Hawaiian Legal Corporation are challenging the State of Hawaii's illegal exchange of ceded lands to a private landowner for the development of a geothermal facility on the Island of Hawaii. The State lands exchanged were ceded lands

subject to a special trust under the 1959 Hawaii Admission Act for the benefit of Native Hawaiians. In 1992, in *Pele Defense Fund v. Paty*, the Hawaii Supreme Court reversed an adverse decision of the lower state court and granted NARF's clients, the Pele Defense Fund, a trial on the subject of the scope of Native Hawaiian access and gathering rights on the ceded lands exchanged. Trial preparations and settlement negotiations have been underway.



Artwork: Ken "Rainbow Cougar" Edwards



Photo: Bert Gildart

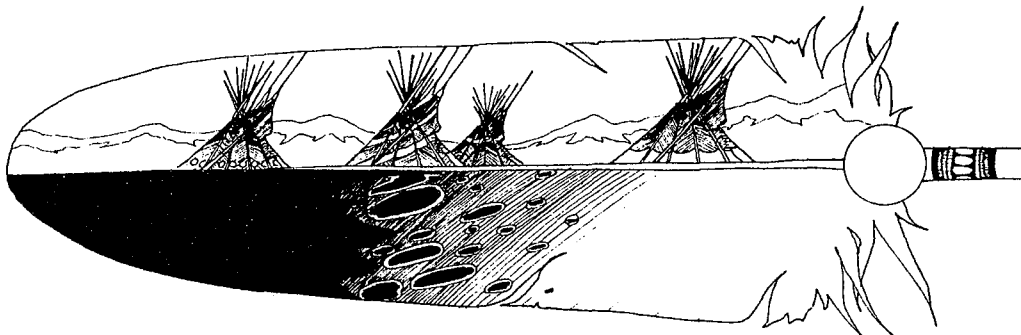
Arctic Sun, Venetie, AK

NARF filed an *amicus curiae* brief in *Lincoln v. Vigil*, on behalf of Northern New Mexico Legal Services, and assisted them in briefing and preparing for oral argument before the United States Supreme Court in February 1993. The case challenged the Indian Health Service and Bureau of Indian Affairs' termination of a special program benefitting severely handicapped Indian children without adequate notice. The

Supreme Court in May, 1993, reversed the favorable decisions of the lower courts and ruled that the Administrative Procedures Act did not require Federal Register notice and comment rulemaking before termination of the program.

Also, in April, 1993, NARF filed an *amicus curiae* brief in *Malone v. Bureau of Indian Affairs* before the Ninth Circuit Court of Appeals. The brief was filed on behalf of the National Indian Education Association, the California Rural Indian Health Board, the California Urban Indian Health Council and the

Tule River Tribe. The case involves efforts by the BIA to exclude California Indians who are on the California Judgment Fund Distribution Roll from eligibility for higher education grant benefits. This group had been eligible since the BIA first promulgated the eligibility criteria in 1957, but that eligibility has now been changed without proceeding through formal rulemaking under the Administrative Procedures Act.



Artwork: Ken "Rainbow Cougar" Edwards

## THE DEVELOPMENT OF INDIAN LAW

The systematic development of Indian law is essential for the continued protection of Indian rights. This process involves distributing Indian law materials to, and communicating with, those groups and individuals working on behalf of Indian people. NARF has two ongoing projects which are aimed at achieving this goal.

### Indian Law Support Center

The first of these projects is the Indian Law Support Center (ILSC), which is one of 16 national support centers funded by the Legal Services Corporation. NARF has operated the ILSC since 1972, providing backup legal assistance to local legal services programs which serve Indians on reservations and in urban areas nationwide.

During the fiscal year 1993, the ILSC provided assistance to local programs in all areas of Indian law. In responding to hundreds of requests, the Center's services have included giving letter and telephone advice, furnishing legal materials, conducting legal research, reviewing drafts of court pleadings and briefs, analyzing legislation, co-counseling in litigation, and providing other services as requested by legal services field programs. The Center conducted two national training events in 1993. The first conference, *Traditional Peacemaking: Remaking Justice*, focused on the process of bringing traditional systems of

justice back, of nurturing them to return to a full and vibrant role within contemporary tribal government institutions. The second conference, *Indian Child Welfare Act Training*, focused on the unique challenges in enforcing the Indian Child Welfare Act of 1978 in state courts. The publication of a monthly newsletter, the *Indian Law Support Center Reporter*, distributed to Indian law practitioners, is another service performed by the Center.

The ILSC has also written and widely distributed seven manuals on major areas of Indian law: *A Manual on Tribal Regulatory Systems*; *A Self-Help Manual for Indian Economic Development*; *A Handbook and Update of Federal Indian Education Laws*; *A Manual and Update for Protecting Indian Natural Resources*; *An Update to the Manual on the Indian Child Welfare Act and Laws Affecting Indian Juveniles*; and, a manual entitled *Prison Law and the Rights of Native American Prisoners*.

### The National Indian Law Library

The National Indian Law Library (NILL) is the only law library specializing in legal practice materials which are essential for practitioners of Indian Law. Thousands of legal pleadings and opinions from virtually every major Indian law case since the 1950's exists within the NILL collection. These pleadings, the crux



Artwork: Ken "Rainbow Cougar" Edwards

of NILL, are deeply appreciated by those familiar with traditional law library resources.

NILL houses the only comprehensive lending collection of past and present Tribal government documents. In the six years since its inception the Tribal Government Collection consisting of constitutions, codes, ordinances, resolutions, by-laws and charters has surpassed 750 documents. It provides an invaluable partnership network for those involved in the drafting, correcting and revising of Tribal government documents.

NILL actively collects Indian law related documents. These documents cover a spectrum which includes books, pamphlets, federal government and agencies documents, state government and agencies documents, law review articles, scholarly reports, journal articles, newspaper articles, student reports, and conference and seminar papers.

Access to the contents of the NILL collection is provided through a computerized database. Numerous access points are assigned each record entered in the database. In addition to the basic author, title and subject headings, other access points include the Tribe involved, the jurisdiction, the parties to the lawsuit, the judges, the attorneys, the citation, the docket number and the NILL subject headings.

The NILL collection has proven to be a unique resource for those working in the arena of federal Indian law. In addition it is invaluable for attorneys and legal advocates working in geographically isolated areas throughout Indian country. These NILL clients make ready use of the telephone, telefax and postal service to acquire legal reference assistance since many of them are without access to even the most basic law library materials.

## Other Activities

In addition to its major projects, NARF staff is actively involved in national Indian conferences and legal education projects. During the past fiscal year, NARF attorneys and staff served in formal or informal speaking and leadership capacities at numerous tribal, state, academic, and national Indian meetings such as the American Indian Resources Institute's Tribal Leaders Forums, the National Congress of American Indians and the Federal Bar Association.

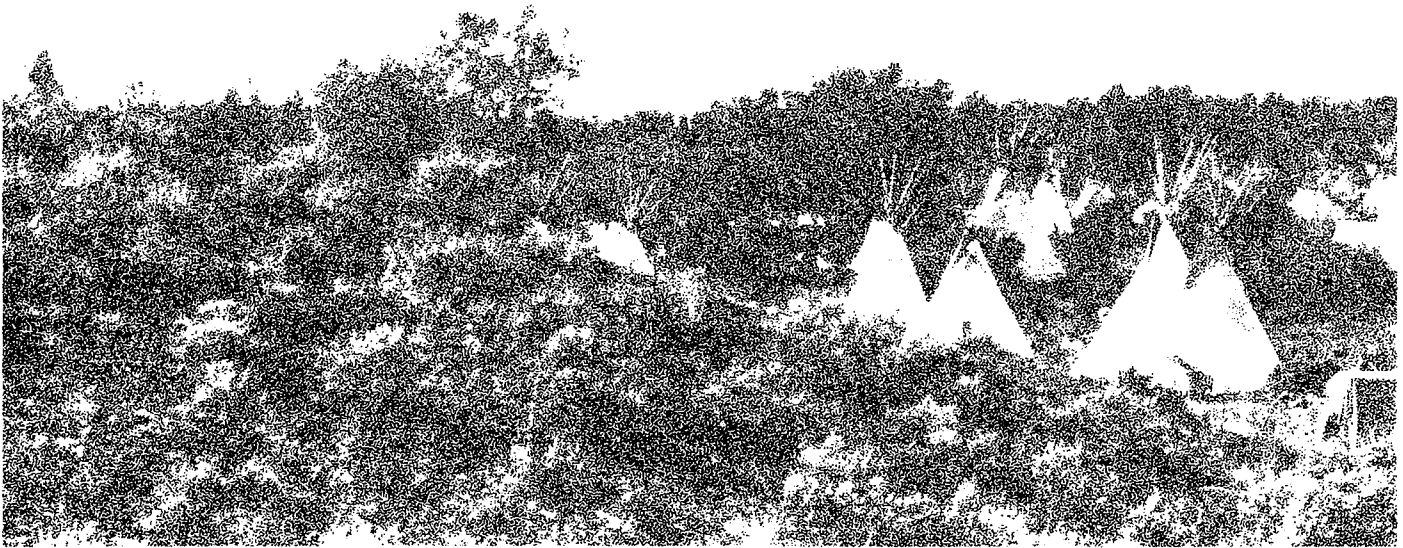
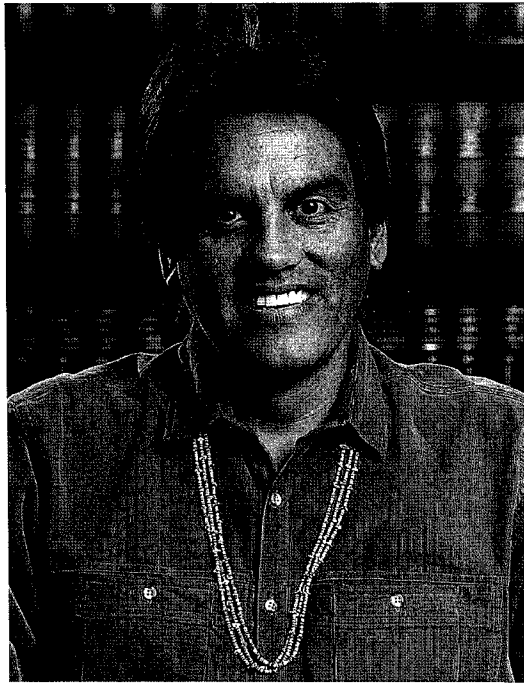


Photo: Smithsonian Institute



#### **IN MEMORY OF LEE DIXON**

Lee Dixon, Chairman of the Indian Law Support Center's Project Advisory Committee (PAC), died unexpectedly in August of 1993. He had been a member of the PAC since February of 1989 and served as Chairman from April 3, 1991 until his death. Lee also served as Chairman of the board of California Indian Legal Services.

Lee was an insightful and charismatic individual. He was a devoted family man and dedicated an enormous amount of his time to his community and Tribe, the Pauma Band of Mission Indians.

Lee was an inspiration to the staff of the Indian Law Support Center and the Native American Rights Fund. There are no words that can ease our deep sense of loss. Our hope is that one day we will be able to remember his soaring spirit and his contributions to the legal service community and his tribe without feeling the pain of his absence.

## Foundations

The Boston Foundation  
Bush Foundation  
Carnegie Corporation  
Ford Foundation  
General Service Foundation  
George Bird Grinnell American  
Indian Children's Education  
Foundation  
John D. & Catherine T.  
MacArthur Foundation  
National Lawyers Guild  
New York Community Trust  
Northwest Area Foundation  
The Plumsock Fund  
Rockefeller Foundation  
Skadden Fellowship  
Toyota Foundation

## Corporations

A & A Acoustics  
Berlin Steel Company  
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Massey's Plate Glass  
McPhee & Sons, Inc.  
Monarch Industries Inc.  
New England Design  
The Tucker Company  
WDJ Construction, Inc.  
XYZ Corporation  
Z-Floriz, Inc.

## Tribal Contributions

Shakopee Mdewakanton Sioux  
Community  
Winnebago Tribe of Nebraska

## Federal Programs

Administration for Native Americans  
Bureau of Indian Affairs  
Legal Services Corporation

## Federated Workplace Campaigns

Thank you to the thousands of federal,  
state, municipal and private sector  
employees throughout the country who,  
through their payroll deduction plans,  
contributed more than \$141,000 to NARF  
in 1993.

## Matching Gifts

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Chemical Bank  
Cray Research, Inc.  
Digital Equipment Corporation  
Illinois Tool Works Foundation  
John Hancock Mutual Life Insurance  
Company  
Joseph E. Seagraves & Sons, Inc.  
JP Morgan  
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Microsoft Corporation  
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Pitney Bowes  
Public Interest Communications, Inc.  
Reader's Digest Foundation  
Rockefeller Family Fund, Inc.  
The Equitable Foundation  
The Sun Microsystems Foundation,  
Inc.  
The Clorox Company  
The Quaker Oats Foundation  
Transamerica Foundation  
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# Contributions: Fiscal Year 1993

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(Individuals contributing \$1,000 or more)

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## Circle of Life Members

(Contributors providing a lasting legacy to NARF through a bequest or planned gift.)

Audrey Baldwin  
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Barbara and Harry Beasley  
Roy Benson  
Patricia and Don Burnet  
Mary Casmus  
Donald Marquis Chase  
Janet M. Congero  
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Arthur E. Schroeder  
Gillian and Michael Seeley  
Katey Flynn Simetra  
Nita and Charles Smith  
C. Dickson Titus  
Roger Welsch  
Abraham Zuckerman





## Memorial Gifts

### (\$500+)

Wilmer A. Cooper by Dr. Danielle C. Cooper  
Dr. Kendall Emerson by Mrs. Kendall Emerson  
Clara Rexroat & Julie Peck by Ola Mildred Rexroat

### (\$100-499)

Edmund Arthur "Ed" Lewis by Francine, Bruce & Kitty Oelker  
Frank Banis, Dan Day, Elmer Graham by Barbara Bastle  
Mother of Rose & David Bachi by Rose Bachi  
Margaret Virginia Carlson by Mary E. Drew, Susan L. Williams and Aline E. K. Woh  
Vernon F. Creighton by Ellen Creighton/The Flowering Tree  
Eleanor Kleese & Evelyn Edelstein by Deborah Kleese & Mike Edelstein  
Mark Foster Ellingwood by Kendall Ellingwood, Jr.  
William Forest Fitzpatrick by Nancy L. Kaser  
Irene Kulig Horvath by Nicholas C. Horvath  
Harriet Katherine Jackson by Michel Jackson  
Benjamin LaFrance by Tim LaFrance  
Anna Lethco Layman by Imogene L. Morgan  
Ethel Lyons by William G. & June E. Lowe

Michael Robert Markus by The Luedecke Family  
Olympia Ortiz by James P. MacGruther  
Rose Marie Perez by Jay and Linda Melvin  
Bill Pendergraft by Ingrid LeBlanc  
Basil Rauch by Elizabeth Hird  
Gertrude M. Reifsteck by John S. Bevan  
Toni Elizabeth Richardson by Marcia Richardson  
Patricia Ross by Officers and Employees of General Research Corporation  
Edward Schoenig & Chief Tom Thunder by Patricia Taylor Kirschner  
Catherine Selzer by Rev. Rollins Lambert  
Stanley Stone by Joe & Lynne Alfieri  
Lynda Davis Stoneman by Deborah Jackson  
Ruth Settle Suagee by Jay T. Suagee  
Gerhard F. Uhlig by Ingrid LeBlanc  
Alex H. Warner by Mrs. Alex H. Warner  
La Verne White by Wyman Youth Trust  
Johanna Emma Wright by Lisa Wersal  
Philleo Nash by Mrs. Philleo Nash

## In-Kind Donations

Yuklin Aluli - Kailua, HI  
Christopher T. Aquilino - Washington, D.C.  
Robert F. Bartle - Lincoln, NE  
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James Botsford - Wausau, WI  
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## Honorary Gifts

### (\$500+)

Tom Little Bear Nason by Dolan Eargle  
Tony Serra by Barbara Meislin

### (\$100-499)

Milton W. Blake by Gayle Liebman  
Terri Donovan by Don & Edith Hammersley  
Gloria & Jimmy Holder by Abbot Lee Granoff, MD  
Julie Rece & Greg Mitchell by Marguerite S. Rece  
Mrs. Barbara Morrison by Mrs. Herta Rapp  
Woo Ju Shen by Michel Jackson  
Tyeko Yamada Jackson & Takashi Yamada by Arthur S. & Margaret Yamada  
Tayeko Yamada & Kash Yamada by Patrick Haggart, Nobuko Yamada & Chiyo Yamada

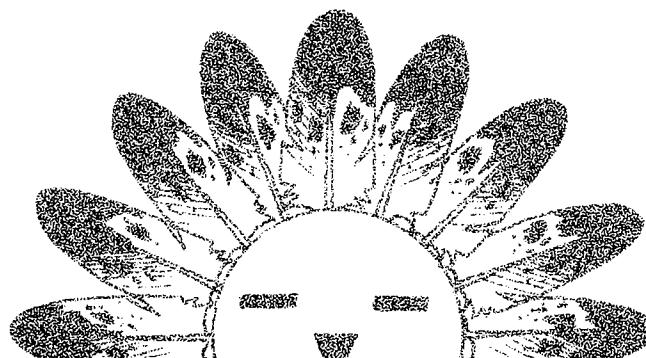
*Thank you to the thousands of individuals throughout the country who supported our efforts in 1993.*

*John E. Echohawk*

John E. Echohawk  
Executive Director

## Bequests

Marie Blank  
Marion Francis  
Alvin T. George  
William Holman  
Irene C. Hypp  
Doris and William Rentsch  
Laura Rhodes  
Sarah Shaw  
Norman Theilking  
Luella Winkler Topping



Artwork: Ken "Rainbow Cougar" Edwards

## TREASURER'S REPORT 1993



The Native American Rights Fund is pleased to report that we again received an unqualified auditor's opinion. Further, thanks to the generosity of our donors and the continued attention to operating cost control, NARF was able to present a sound financial picture, ending Fiscal 1993 with an increase to total fund balances of \$787,332. A record \$765,019 was added to the general unrestricted fund balance and, of this amount, \$58,731 was interest earned by NARF's Endowment Fund. This is a big step in bringing us closer to our goal of establishing a reserve fund equal to a quarter of NARF's operating budget that will provide for continuity of service to clients in the event of a significant variance in funding levels.

The chart below summarizes a comparison of revenue sources for Fiscal 1992 and 1993:

REVENUE SOURCE	FY93	FY92
Government Grants	31.5%	42.5%
Foundations & Trusts	11.6%	10.8%
Contributions	40.5%	30.6%
Legal Fees	14.6%	7.9%
Other	1.8%	8.2%
	100%	100%

The decrease in government grants and increase in legal fee income is attributed to a delay in our Administration for Native Americans grant renewal. Foundation and trust revenue increased by a little under \$200,000, largely because NARF had a full year's funding (\$500,000) available from the Ford Foundation in this fiscal year. Contributions also show a significant increase due to a special fundraising event and a record year in income from bequests. In Fiscal 1992 bequests were delineated in the "Other" category; in Fiscal 1993 this income has been shifted to Contributions leaving such revenue as income from publications, conferences and interest earnings as "Other" income.

Though total NARF expenditures increased by \$873,343 between Fiscal 1992 and 1993, the functional spread (shown below) demonstrates NARF's continued efforts to limit support services to an approximate 25% of total expenditures in order to allocate most of our resources to program efforts.

FUNCTIONAL EXPENDITURES	FY93	FY92
Litigation & Client Services	70.0%	71.4%
National Indian Law Library	4.7%	4.3%
<b>Program Services:</b>	<b>74.7%</b>	<b>75.7%</b>
Management & General	13.0%	12.8%
Fundraising	12.3%	11.5%
<b>Support Services:</b>	<b>25.3%</b>	<b>24.3%</b>

**Native American  
Rights Fund, Inc.**  
Financial Statements  
September 30, 1993 and 1992

*Price Waterhouse*

950 Seventeenth Street  
Suite 2600  
Denver, CO 80202

Telephone 303 893 8100



**Report of Independent Accountants**

December 15, 1993

To the Board of Directors of  
Native American Rights Fund, Inc.

In our opinion, the accompanying balance sheet and the related statements of support, revenue, expenses, capital additions and changes in fund balances, of cash flows and of functional expenses present fairly, in all material respects, the financial position of Native American Rights Fund, Inc. at September 30, 1993, and the results of its operations and its cash flows for the year then ended in conformity with generally accepted accounting principles. These financial statements are the responsibility of the organization's management; our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit of these statements in accordance with generally accepted auditing standards which require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for the opinion expressed above.

We previously audited, in accordance with generally accepted auditing standards, the balance sheet as of September 30, 1992 and the related statements of support, revenue, expenses, capital additions and changes in fund balances, of cash flows and of functional expenses for the year then ended (not presented herein) and in our report dated December 11, 1992, we expressed an unqualified opinion on those financial statements. In our opinion, the information set forth in the accompanying condensed balance sheet as of September 30, 1992 and the condensed statements of support, revenue, expenses, capital additions and changes in fund balances, of cash flows and of functional expenses for the year ended September 30, 1992, when read in conjunction with the financial statements from which it has been derived, is fairly stated in all material respects in relation thereto.

*Price Waterhouse*

# Native American Rights Fund, Inc.

## Balance Sheet

	September 30,						
	1993						1992
	Current Funds			The NARF 21st Century Endowment Fund	General fixed asset fund	Total all funds	Total all funds
	Unrestricted	Non-ILSC Restricted	ILSC				
<b>Assets</b>							
Cash and cash equivalents	\$ 49,569	\$	\$	\$	\$	\$ 49,569	\$ 374,489
Marketable securities, at cost	1,206,020			1,015,000		2,221,020	1,809,653
Grants receivable		644,562	27,337			671,899	364,897
Unbilled grants receivable							315,568
Bequests receivable	269,000					269,000	805,382
Other receivables	749,611					749,611	346,439
Donated art	99,525					99,525	108,025
Prepaid expenses and other assets	63,840					63,840	91,620
Interfund receivable (payable)	80,117	(57,854)	(22,263)				
Property and equipment, at cost:							
Land and buildings					313,937	313,937	313,937
Improvements to land and buildings					181,757	181,757	181,757
Office equipment and furnishings			17,411		420,836	438,247	527,447
Professional library					154,730	154,730	144,191
Less: accumulated depreciation			(9,242)		(627,425)	(636,667)	(712,801)
	<u>\$ 2,517,682</u>	<u>\$ 586,708</u>	<u>\$ 13,243</u>	<u>\$ 1,015,000</u>	<u>\$ 443,835</u>	<u>\$ 4,576,468</u>	<u>\$ 4,670,604</u>
<b>Liabilities and Fund Balances</b>							
Accounts payable	\$ 346,538	\$	\$	\$	\$	\$ 346,538	\$ 360,538
Other accrued expenses	392,608		5,074			397,682	304,847
Deferred revenue	269,000	586,708				855,708	1,791,171
Mortgage and notes payable					53,411	53,411	78,251
Fund balances	1,509,536		8,169	1,015,000	390,424	2,923,129	2,135,797
Commitments							
	<u>\$ 2,517,682</u>	<u>\$ 586,708</u>	<u>\$ 13,243</u>	<u>\$ 1,015,000</u>	<u>\$ 443,835</u>	<u>\$ 4,576,468</u>	<u>\$ 4,670,604</u>

The accompanying notes are an integral part of these financial statements.

The accompanying notes are an integral part of these financial statements.

## Native American Rights Fund, Inc.

### Statement of Support, Revenue, Expenses, Capital Additions and Changes in Fund Balances

	For the year ended September 30,						
	1993					1992	
	Current Funds			The NARF 21st Century Endowment Fund	General fixed asset fund	Total all funds	Total all funds
	Unrestricted	Non-ILSC Restricted	ILSC				
Support and Revenue							
Governmental grants	\$	\$ 1,938,009	\$ 371,911	\$	\$	\$ 2,309,920	\$ 2,592,940
Foundation and trust grants		852,174				852,174	659,907
Contributions	2,938,585	27,764				2,966,349	1,870,220
Legal fees		1,068,279				1,068,279	484,001
Other	33,223		99,491			132,714	499,975
Total support and revenue	2,971,808	3,886,226	471,402			7,329,436	6,107,043
Expenses							
Program services:							
Litigation and client services	1,546,629	2,685,407	329,475		65,193	4,626,704	4,091,272
National Indian Law Library	102,828	178,241	21,744		4,327	307,140	244,518
Total program services	1,649,457	2,863,648	351,219		69,520	4,933,844	4,335,790
Support services:							
Management and general	289,713	493,990	63,006		11,992	858,701	732,001
Fund raising	270,546	469,125	57,230		11,389	808,290	659,701
Total support services	560,259	963,115	120,236		23,381	1,666,991	1,391,702
Total expenses	2,209,716	3,826,763	471,455		92,901	6,600,835	5,727,492
Excess (deficiency) of support and revenue over expenses	762,092	59,463	(53)		(92,901)	728,601	379,551
Capital Additions							
Contributions							1,015,000
Investment income				58,731		58,731	30,108
Total capital additions				58,731		58,731	1,045,108
Excess (deficiency) of support and revenue over expenses after capital additions	762,092	59,463	(53)	58,731	(92,901)	787,332	1,424,659
Fund balances, beginning of year	744,517		10,539	1,015,000	365,741	2,135,797	711,138
Other changes in fund balances:							
Acquisition of property and equipment	(54,761)	(37,983)			92,744		
Repayment of mortgage and notes payable	(1,043)	(21,480)	(2,317)		24,840		
Realized gains on endowment funds utilized	58,731			(58,731)			
Fund balances, end of year	\$ 1,509,536	\$	\$ 8,169	\$ 1,015,000	\$ 390,424	\$ 2,923,129	\$ 2,135,797

The accompanying notes are an integral part of these financial statements.

# Native American Rights Fund, Inc.

## Statement of Functional Expenses

For the year ended September 30,								
1993							1992	
	Program services			Support services			Total expenses	Total expenses
	Litigation and client services	National Indian Law Library	Total	Management and general	Fund raising	Total		
<b>Salaries and Wages</b>								
Professional staff	\$ 1,242,790	\$ 82,535	\$ 1,325,325	\$ 228,652	\$ 217,137	\$ 445,789	\$ 1,771,114	\$ 1,503,697
Support staff	388,536	25,802	414,338	71,483	67,885	139,368	553,706	486,306
Fringe benefits	392,487	26,065	418,552	72,210	68,575	140,785	559,337	496,147
Total salaries and related costs	2,023,813	134,402	2,158,215	372,345	353,597	725,942	2,884,157	2,486,150
Contract fees and consultants	1,111,950	73,845	1,185,795	204,578	194,278	398,856	1,584,651	1,382,825
Travel	353,627	23,484	377,111	65,061	61,786	126,847	503,958	343,643
Space costs	113,238	7,520	120,758	20,834	19,785	40,619	161,377	164,884
Office expenses	804,070	53,398	857,468	154,019	140,487	294,506	1,151,974	1,054,479
Equipment maintenance and rental	68,929	4,578	73,507	12,682	12,043	24,725	98,232	95,488
Litigation costs	30,119	2,000	32,119	5,541	5,263	10,804	42,923	13,771
Library costs	53,898	3,579	57,477	11,397	9,418	20,815	78,292	84,497
Expenses before bad debts and property transactions	4,559,644	302,806	4,862,450	846,457	796,657	1,643,114	6,505,564	5,625,737
Bad debts								19,766
Loss on disposal of property and equipment	11,213	625	11,838	1,969	1,876	3,845	15,683	1,427
Depreciation	55,847	3,709	59,556	10,275	9,757	20,032	79,588	80,562
Total expenses	<u>\$ 4,626,704</u>	<u>\$ 307,140</u>	<u>\$ 4,933,844</u>	<u>\$ 858,701</u>	<u>\$ 808,290</u>	<u>\$ 1,666,991</u>	<u>\$ 6,600,835</u>	<u>\$ 5,727,492</u>

The accompanying notes are an integral part of these financial statements.

The accompanying notes are an integral part of these financial statements.

## Native American Rights Fund, Inc.

### Statement of Cash Flows

	For the year ended September 30,						
	1993						1992
	Current Funds			The NARF	General fixed asset fund	Total all funds	Total all funds
	Unrestricted	Non-ILSC Restricted	ILSC	21st Century Endowment Fund			
<b>Cash Flows From Operating Activities</b>							
Excess (deficiency) of support and revenue over expenses after capital additions	\$ 762,092	\$ 59,463	\$ (53)	\$ 58,731	\$ (92,901)	\$ 787,332	\$ 1,424,659
Adjustments to reconcile excess (deficiency) of support and revenue over expenses after capital additions:							
Deferred revenue and grants receivable recognized as support and revenue	(536,382)	(1,568,925)	(88,753)			(2,194,060)	(855,193)
Deferred revenue received and grants receivable collected		1,267,163				1,267,163	2,191,620
Bad debt expense							19,766
Depreciation			2,370		77,218	79,588	81,989
Loss on disposal of property and equipment					15,683	15,683	
Decrease (increase) in other receivables	133,210					133,210	(495,130)
Decrease (increase) in other assets	27,785					27,785	145,859
Decrease in donated art	8,500					8,500	79,975
Decrease (increase) in interfund receivable/payable	(324,025)	301,762	22,263				
Increase (decrease) in accounts payable	(14,000)					(14,000)	(75,412)
Increase (decrease) in other liabilities	87,761		5,074			93,835	(15,152)
Net cash provided by (used for) operations	144,941	59,463	(59,099)	58,731		204,036	2,502,981
<b>Cash Flows Used For Investing Activities</b>							
Increase in marketable securities	(411,372)					(411,372)	(1,804,408)
Acquisition of property and equipment, net					(92,744)	(92,744)	(13,658)
<b>Cash Flows Used In Financing Activities</b>							
Net fund balance transfers	2,927	(59,463)	(2,317)	(58,731)	117,584		
Net payment of debt					(24,840)	(24,840)	(335,647)
<b>Increase (Decrease) In Cash</b>	(263,504)		(61,416)			(324,920)	349,268
<b>Cash and Equivalents at Beginning of Year</b>	313,073		61,416			374,489	25,221
<b>Cash and Equivalents at End of Year</b>	\$ 49,569	\$	\$	\$	\$	\$ 49,569	\$ 374,489

The accompanying notes are an integral part of these financial statements.



# **Native American Rights Fund, Inc.**

## **Notes to Financial Statements**

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### **1. Organization and Summary of Significant Accounting Policies**

#### **Organization**

Native American Rights Fund, Inc. ("NARF") was incorporated in 1971 under the nonprofit corporation law of the District of Columbia and has a primary objective of providing legal representation, assistance and education to Native American people. NARF derives financial support from private foundations, the United States Government, public contributions and a limited fee policy.

NARF is a tax-exempt organization as described in section 501(c)(3) of the Internal Revenue Code and, as such, is subject to federal income taxes only on unrelated business income.

#### **Revenue Recognition**

NARF receives a significant portion of its support in the form of restricted government and foundation grants. NARF's paying clients are concentrated among Native American tribes.

Revenue from restricted grants and contracts is deemed to be earned when NARF has incurred costs which satisfy restrictions imposed by the respective grants or contracts. Funds received from restricted sources in excess of costs incurred are reported as deferred revenues. For costs incurred in excess of funds received from restricted sources, revenue and related receivables are recognized to the extent of such costs unless, in management's opinion, future grant or contract funds will be insufficient. In such cases, costs are charged to unrestricted funds.

Contributions and donations from unrestricted sources are generally recognized when received. Unrestricted donations of marketable securities or other in-kind contributions are recorded as revenue at their estimated fair market value at the date of contribution.

Bequests are recorded as a receivable and deferred revenue in the unrestricted fund when the amount of the bequest can be reasonably determined. Such bequests are recorded as revenue when the receipt of the funds is imminent.

#### **The NARF 21st Century Endowment Fund**

The NARF 21st Century Endowment Fund (the "Endowment") was established on December 31, 1991 with a \$1,000,000 challenge grant from the Ford Foundation. Under the terms of the grant NARF has five years to match Ford's contribution on a \$2 for \$1 basis. At the end of the five year period, Ford will reconsider its initial contribution if its challenge has not been met. All endowment contributions have been recognized as capital additions.

Endowment funds are invested in mutual funds managed by an outside investment manager. Interest earned on the endowment investments is unrestricted and has been used currently to finance NARF programs. Investments are carried at the lower of cost or market. Unrealized gain on the investments at September 30, 1992 was approximately \$37,000.

# **Native American Rights Fund, Inc.**

## **Notes to Financial Statements**

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### **Interfund Receivable (Payable)**

All funds received by NARF which are not specifically identified as endowment funds are deposited in a general bank account. Segregation of cash and certain other assets and liabilities between non-Indian Law Support Center ("ILSC") restricted and unrestricted funds is not maintained in the accounting records. Segregation of revenue and expenditures applicable to restricted funds (including segregation within the restricted fund by grant source), unrestricted funds and the general fixed asset funds is maintained in the accounting records. The interfund receivable (payable) results from the deficiency of net assets specifically identifiable with the restricted fund over deferred revenue at September 30, 1993.

### **Donated Art**

During fiscal 1990, NARF received donations of Native American art in collaboration with an association of Native American artists. A portion of the art was sold during fiscal 1992 and 1993. The remaining art is being held for sale at September 30, 1993. A corresponding liability is recorded in the accompanying financial statements to recognize a commitment to the artists' association for its assistance in obtaining the art donations. The liability is \$26,538 and \$56,000 at September 30, 1993 and 1992, respectively.

### **Mailing Lists**

Costs incurred to acquire mailing lists are deferred until direct mailings occur.

### **Allocation of Expenses**

Expenses are allocated to grants based on time devoted to projects by attorneys, except where expenses are specifically identifiable with a particular grant or project.

The costs of providing the various programs and other activities have been summarized on a functional basis in the statement of support and revenue, expenses, capital additions, and changes in fund balances. Accordingly, certain costs have been allocated among the programs and supporting services benefitted.

### **Professional Staff**

Personnel classified as professional staff include attorneys, paralegals, librarians, interns and office management personnel.

### **Fund Raising**

Fund raising expenses are comprised of costs associated with contribution revenue and costs associated with obtaining grants from private foundations and governmental agencies.

In 1993 and 1992, the organization incurred joint costs of \$656,634 and \$677,891, respectively, for informational materials and activities that included fund-raising appeals. These costs were allocated between program and fund-raising expenses as follows:

	<b>1993</b>	<b>1992</b>
Program expenses	\$ 393,980	\$ 406,735
Fund-raising expenses	<u>262,654</u>	<u>271,156</u>
	<u>\$ 656,634</u>	<u>\$ 677,891</u>

## Native American Rights Fund, Inc.

### Notes to Financial Statements

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#### General Fixed Asset Fund

The general fixed asset fund accounts for NARF's recorded fixed assets and related debt obligations. Uses of current operating funds for acquisition of property and equipment and principal debt service are accounted for as transfers to the general fixed asset fund. Proceeds from issuance of debt obligations or the sale of fixed assets are accounted for as transfers to the current unrestricted and restricted funds.

#### ILSC Furniture, Fixtures, and Equipment

Property and equipment acquired solely with Legal Services Corporation ("LSC") funds are considered to be owned by ILSC while used in the program or in future authorized programs. However, LSC has a reversionary interest in these assets. In addition, LSC has the right to determine the use of any proceeds from the sale of assets purchased with its funds.

#### Depreciation

Depreciation is computed over the estimated useful lives of the assets using the straight-line method for buildings (25 years), the professional library (30 years), copiers (5 years), computer hardware and software (5 years), and for other property and equipment (10 years).

#### Statement of Cash Flows

NARF considers all highly liquid short-term investments purchased with an original maturity of three months or less to be cash equivalents. Interest received during fiscal years 1993 and 1992 was \$35,355 and \$53,181, respectively. Interest paid during fiscal years 1993 and 1992 was \$4,981 and \$8,960, respectively.

#### Marketable Securities

Marketable securities are presented in the financial statements in the aggregate at cost.

	Cost	Market
Current unrestricted fund	\$ 1,206,020	\$ 1,206,623
Endowment fund	<u>1,015,000</u>	<u>1,015,000</u>
	<u>\$ 2,221,020</u>	<u>\$ 2,221,623</u>

Investments are composed of the following:

	Cost	Market
Mutual funds	\$ 2,220,895	\$ 2,221,498
Other	<u>125</u>	<u>125</u>
	<u>\$ 2,221,020</u>	<u>\$ 2,221,623</u>

# Native American Rights Fund, Inc.

## Notes to Financial Statements

### 2. Restricted Grants Receivable and Deferred Revenue

Restricted grants receivable and deferred revenue consist of the following individual restricted grants or contracts:

	September 30,			
	1993		1992	
	Grants receivable	Deferred revenue	Grants receivable	Deferred revenue
Bureau of Indian Affairs	\$ 621,266	\$	\$ 639,063	\$
The Rockefeller Foundation		42,106		12,827
John D. and Catherine T. MacArthur Foundation		70,299		43,614
Department of Health and Human Services - Administration for Native Americans			41,402	
Ford Foundation		333,333		833,333
Carnegie Foundation		120,435		
Legal Services Corporation	27,337			61,416
Other	23,296	20,535		34,599
	<u>\$ 671,899</u>	<u>\$ 586,708</u>	<u>\$ 680,465</u>	<u>\$ 985,789</u>

### 3. Mortgage and Notes Payable

Mortgage and notes payable consist of the following:

	September 30,	
	1993	1992
Note payable in equal monthly installments of \$1,750, including interest at 6.5%, with remaining principal balance due October 1995; secured by land and building at 1712 N Street, N.W., Washington, D.C.	\$ 43,891	\$ 62,852
Promissory note payable in 58 monthly installments of \$320 principal, plus accrued interest at 11%; due April 1996.	<u>9,520</u>	<u>15,399</u>
	53,411	78,251
Less: current portion	<u>(23,938)</u>	<u>(22,231)</u>
Due beyond next fiscal year	<u>\$ 29,473</u>	<u>\$ 56,020</u>

Annual maturity requirements on the mortgage and notes payable are as follows (fiscal years): 1994 - \$23,938; 1995 - \$24,278; 1996 - \$5,054; thereafter - \$0.

# Native American Rights Fund, Inc.

## Notes to Financial Statements

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### 4. Commitments

NARF leases equipment under operating leases. Annual future minimum rental payments under operating leases are as follows (fiscal years): 1994 - \$73,033; 1995 - \$48,840; 1996 - \$7,183; 1997 - \$1,632; 1998 - \$0. Rental expense was \$74,566 and \$39,206 for 1993 and 1992, respectively.

### 5. Restricted Revenue

Restricted grant revenues consist of the following restricted grants or contracts:

	Year ended September 30,	
	1993	1992
Bureau of Indian Affairs	\$ 1,319,120	\$ 1,194,125
Department of Health and Human Services -		
Administration for Native Americans	619,217	1,162,788
Ford Foundation	500,000	166,667
Legal Services Corporation	471,402	238,252
The John D. and Catherine T. MacArthur Foundation	73,315	175,099
Rockefeller Foundation	133,121	104,859
Carnegie Foundation	29,544	
Skadden Fellowship	27,721	44,114
Bush Foundation	13,506	25,094
ANA Pass-through Grants	435,857	
Council for Tribal Employment	442,046	
Others	<u>292,779</u>	<u>625,850</u>
	<u>\$ 4,357,628</u>	<u>\$ 3,736,848</u>